

REMARKS

This responds to the non-final Office Action mailed on 30 April 2009. Independent claims 1, 4, 15, 20, 27, 28, 31, and 39 are amended above. The specification is amended to track the limitations of claims 1, 15, 27, 31 and 39. Support for the amendments is provided by at least FIGS. 6-7 and the related description of those figures in the present application. No new matter has been added. Claims 1 and 3-44 remain pending in the application.

Interview Summary

Applicants' representative, L. Grant Foster, engaged in an in-person interview with Examiner Melissa Ryckman and Supervisory Patent Examiner Jackie Ho on 2 June 2009. The parties discussed the pending claims in view of the prior art of record. The parties agreed that the amendments to claims 1, 15, 27, 31 and 39, set forth above, would overcome the current rejections. The Examiners also indicated that an updated search may be conducted upon receipt of the present Amendment.

Claim Rejections -- 35 U.S.C. § 103

Claims 1 and 3-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,860,895 to Akerfeldt et al. Applicants respectfully traverse the rejection.

Claims 1, 15, 31 and 39 as amended recite "at least a portion of the tamping member at least partially wraps around the gear." Claim 27 as amended recites "at least a portion of the tamping tube at least partially wraps around at least one of the first and second gears."

Akerfeldt fails to disclose a tamping member that “at least partially wraps around at least a portion of a gear.” Akerfeldt discloses an insertion tool 101 that includes a distal plug member 2, a proximal plug member 3, an outer feeder member 33, a pulley spacer member 37, a first pulley 38 mounted to pulley spacer member 37, a clamping block 39, and a second pulley 40 mounted to the clamping block 39. A suture 6 extends from the distal plug member 2, over the first and second pulleys 38, 40, and terminates at a pusher 36. In operation, an axially force is applied to the proximal plug member 3 by the outer feeder member 33 as a casing of the insertion tool 101 is pulled proximally (*see* FIGS. 5-7 of Akerfeldt and the related description at col. 6, line 47 to col. 7, line 39).

The outer feeder member 33 does not wrap around or even contact one of the pulleys 38, 40. Rather, the outer feeder member 33 is spaced from the first pulley 38 by the pulley spacer member 37. The second pulley 40 is mounted to the clamping block 39 and remains spaced apart from the outer feeder member 33. There are no other features disclosed by Akerfeldt that engage the proximal plug member 3 or perform a tamping function besides the outer feeder member 33. Therefore, Applicants submit that Akerfeldt fails to disclose every limitation of claims 1, 15, 27, 31 and 39, and the claims that depend from them, for at least the reason that there is no teaching by Akerfeldt of at least partial wrapping of a tamping member around a gear.

Claim 40 recites “a spool with a portion of the filament wound thereon; a gear engaged with the spool and arranged coaxially with the spool.” The Examiner points to the second pulley 40 shown in FIG. 5 as being “a spool with a portion of the filament wound thereon.” However, there is no disclosure or suggestion by Akerfeldt of arranging the pulley 40 or any other feature of the device coaxial with a gear. Therefore, Applicants submit that one of skill in the art

reviewing Akerfeldt would not be motivated to modify the Akerfeldt device to meet every limitation of claim 40 and the claims that depend from it.

Claim 43 recites “an automatic driving mechanism . . . comprises a transducer for effecting movement of the tamping tube toward the sealing plug upon withdrawal of the closure device from the tissue wall puncture, the transducer comprising: an electronic switch at the proximal end of the closure device; and a motor operatively connected to the electronic switch, wherein retraction of the closure device from the tissue wall puncture trips the electronic switch and activates the motor to move the tamping tube toward the sealing plug.”

The Examiner asserts that the feature 32 disclosed by Akerfeldt is a transducer, and that while Akerfeldt does not teach an electronic switch or an optical sensor, “it is well known in the art to use an electronic switch as using electric power is well known in the art.” Applicants respectfully disagree. First, there is no teaching or suggestion in Akerfeldt of using any electronics as part of the insertion tool 101. Further, there is no disclosure or suggestion by Akerfeldt of using any feature that “trips” another feature (e.g., a switch of any type) to “activate” operation of another feature (e.g., a motor) to drive the tamping tube. Still further, there is no teaching or suggestion by Akerfeldt of an electronic switch or other feature that “trips” and is positioned “at the proximal end of the closure device.”

The Examiner has provided no support for the assertion that electronic components, in particular an electronic switch and motor activated by an electronic switch, are obvious for use in a tissue puncture closure system. The Examiner has not established a prima facie case of obviousness concerning the specific limitations of claim 43 that “retraction of the closure device from the tissue wall puncture trips the electronic switch,” or that the motor, as opposed to other

devices (whether mechanical or electrical), “moves the tamping tube toward the sealing plug” after being activated by the tripped electronic switch.

In view of the above, Applicants submit that Akerfeldt fails to disclose or render obvious every limitation of claim 43 and the claims that depend from it.

Double Patenting Rejection

Claims 1-39 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over copending U.S. Application Nos. 11/130,895, 11/130,688, 11/103,730, and 11/103,257. Applicants respectfully traverse this rejection at least as it applies to canceled claim 2. Applicants will wait to address any potential double patenting issues until Applicants receive an indication that the claims in any one of these applications or the present application have been allowed.

Conclusion

For at least the foregoing reasons, Applicants believe that each of the presently pending claims in this application is in immediate condition for allowance. Accordingly, Applicants respectfully request a favorable action on the merits. If there remain any unresolved issues, Applicants invite the Examiner to telephone the undersigned attorney to expedite the handling of this matter.

Applicants expressly disclaim all arguments, representations, and/or amendments presented or contained in any other patent or patent application, including any patents or patent applications claimed for priority purposes by the present application or any patents or patent

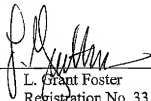
applications that claim priority to this patent application. Moreover, all arguments, representations, and/or amendments presented or contained in the present patent application are only applicable to the present patent application and should not be considered when evaluating any other patent or patent application.

Respectfully submitted,

Date

28 June 2009

By



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